

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING A
JUDGE NO. 02-487

Supreme Court Case No.:
SC03-1171

**OBJECTIONS TO FLORIDA JUDICIAL QUALIFICATIONS
COMMISSION'S PREHEARING STATEMENT**

The Honorable Gregory P. Holder ("Judge Holder"), by counsel, files with the Hearing Panel of the Florida Judicial Qualifications Commission ("the Panel") his Objections to Florida Judicial Qualifications Commission's ("JQC") Prehearing Statement.

1. Judge Holder reasserts all objections previously asserted in this proceeding. Nothing in these objections constitutes a waiver of any objection previously asserted in connection with this proceeding.

2. Judge Holder reserves all objections to the qualifications of JQC's witnesses who may offer opinion testimony and all objections as to opinion testimony.

3. Judge Holder objects to the following witnesses on the ground that an agency of the United States restricted the scope of testimony by the witness at deposition or refused to allow the witness to be deposed. *See, e.g., State v. Tascarella*, 580 So. 2d 154 (Fla. 1991); Motion in Limine to Exclude Testimony of Jeffrey John Del Fuoco and Supporting Memorandum of Law; Motion in Limine to Exclude Testimony of Jeffrey Downing and

Supporting Memorandum of Law; and Motion in Limine to Exclude Testimony of David Leta:

Jeffrey J. Del Fuoco
Jeffrey S. Downing
Colonel David M. Leta

4. Judge Holder objects to the following witnesses on the ground that an agency of the United States has abrogated his Florida and federal due process rights to examine, confront, and cross-examine the witnesses under oath. *See, e.g., Sheiner v. State*, 82 So.2d 657 (Fla. 1955); ***Petition for Revision of, or Amendment to, Integration Rule of the Florida Bar*, 103 So.2d 873** (Fla. 1956); Motion in Limine to Exclude Testimony of Jeffrey John Del Fuoco and Supporting Memorandum of Law; and Motion in Limine to Exclude Testimony of Jeffrey Downing; Supporting Memorandum of Law; and Motion in Limine to Exclude Testimony of David Leta:

Jeffrey J. Del Fuoco
Jeffrey S. Downing
Colonel David M. Leta

5. Judge Holder objects to Exhibits 2, 6, and 12 on the ground that their admission into evidence will violate his Florida and federal due process rights. *See, e.g., Respondent's Motion in Limine to Exclude Evidence on Due Process Grounds and Supporting Memorandum of Law.*

6. Judge Holder objects to Exhibits 2, 6, and 12 on the ground that they cannot be authenticated by JQC. *See, e.g.*, Respondent's Motion in Limine to Exclude Copies of the Purported Holder Paper on Authentication Grounds and Supporting Memorandum of Law; and Respondent's Motion in Limine to Exclude Statement of Colonel Gregory P. Holder Dated March 7, 2003.

7. Judge Holder objects to Exhibits 1, 2, 6, and 12 on the ground that they do not constitute the best evidence. *See, e.g.*, Respondent's Motion in Limine to Exclude Evidence on Best Evidence Grounds and Supporting Memorandum of Law; and Respondent's Motion in Limine to Exclude Statement of Colonel Gregory P. Holder Dated March 7, 2003.

8. Judge Holder objects to Exhibits 1 and 2 on the ground that there are indications that the evidence was tampered with. *See Peek v. State*, 395 So. 2d 492 (Fla. 1980) *cert. denied* 451 U.S. 964; *Murray v. State*, 838 So. 2d 1073 (Fla. 2002).

9. Judge Holder objects to Exhibit 3 on the basis that it is a demonstrative, derivative of the admissibility of Exhibits 1 and 2, and is otherwise inadmissible.¹

¹ The Order of June 18, 2004, did not govern the exchange of demonstrative aids or illustrative charts. These are not evidence. The parties have agreed to exchange such aids and charts prior to the final hearing. Judge Holder proposes that such aids and charts created during final hearing shall be

10.Judge Holder objects to Exhibit 5 on the basis that it is hearsay, inauthentic, and irrelevant.

11.Judge Holder is unable to form objections to Exhibits 8 and 9 because the descriptions are inadequate to identify the exhibits.

12.Judge Holder objects to Exhibit 12 because it was obtained in violation of federal law, including the Privacy Act, and because admission violations his federal and Florida constitutional rights, including the right to privacy (including Florida Constitution Art. I, § 12 and Art. I, § 23). *See, e.g.,* Motion in Limine to Exclude all Documents Provided to the Florida Judicial Qualifications Commission by the United States Air Force. In addition, Judge Holder objects to Exhibit 12 on the grounds that Leta has not been made available to testify. *See, e.g.,* Respondent's Motion in Limine to Exclude Statement of Colonel Gregory P. Holder Dated March 7, 2003.

13.Judge Holder reserves all other objections, including but not limited to authenticity, relevance, and hearsay, with respect to the Special Counsel's exhibits.

exchanged in advance of their use at the hearing.

Dated: September 1, 2004

Respectfully Submitted,

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Counsel for Judge Gregory P. Holder

CERTIFICATE OF SERVICE

I certify that on September 1, 2004, a copy of the foregoing has been served by telecopier and US Mail to Ms. Brooke Kennerly, Hearing Panel Executive Director, 1110 Thomasville Road, Tallahassee, FL 32303; Honorable John P. Kuder, Chairman of the Hearing Panel, Judicial Building, 190 Governmental Center, Pensacola, FL 32501; John Beranek, Counsel to the Hearing Panel, Ausley & McMullen, P.O. Box 391, Tallahassee, Florida 32302; Charles P. Pillans, III, Esq., JQC Special Counsel, Bedell Ditmar DeVault Pillans & Coxe, P.A., The Bedell Building, 101 East Adams Street, Jacksonville, FL 32202; and, Thomas C. MacDonald, Jr., JQC General Counsel, 1904 Holly Lane, Tampa, FL 33629.

Attorney